

ESTTA Tracking number: **ESTTA400269**Filing date: **03/29/2011**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	Brake Masters Systems, Inc.		
Entity	Corporation	Citizenship	Arizona
Address	6179 East Broadway Tucson, AZ 85711 UNITED STATES		

Attorney information	Jeffrey Weiss, Farley Weiss, Karen Fouts WEISS & MOY, P.C. 4204 N. Brown Avenue Scottsdale, AZ 85251 UNITED STATES jweiss@weissiplaw.com,fweiss@weissiplaw.com,kfouts@weissiplaw.com,sking@weissiplaw.com Phone:480-994-8888
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**Registration Subject to Cancellation**

Registration No	3101042	Registration date	06/06/2006
Registrant	Shajari, Abolfazl 22115 Palais Place Calabasas, CA 91302 UNITED STATES		

**Goods/Services Subject to Cancellation**


Class 037. First Use: 2003/01/01 First Use In Commerce: 2005/07/15  
All goods and services in the class are cancelled, namely: AUTOMOTIVE REPAIR, INSTALLATION OF REPLACEMENT PARTS, AND MAINTENANCE SERVICES


**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Marks Cited by Petitioner as Basis for Cancellation**

U.S. Registration No.	1731626	Application Date	02/20/1990
Registration Date	11/10/1992	Foreign Priority Date	NONE
Word Mark	BRAKE MASTERS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 037. First use: First Use: 1983/02/00 First Use In Commerce: 1983/02/00 automotive brake repair services

U.S. Registration No.	2614011	Application Date	07/14/2000
Registration Date	09/03/2002	Foreign Priority Date	NONE
Word Mark	BRAKE MASTERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 037. First use: First Use: 1999/11/03 First Use In Commerce: 1999/12/01 Automotive brake service repair services		

U.S. Registration No.	1487817	Application Date	09/08/1987
Registration Date	05/10/1988	Foreign Priority Date	NONE
Word Mark	BRAKE MASTERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 037. First use: First Use: 1983/02/00 First Use In Commerce: 1983/02/00 AUTOMOTIVE BRAKE REPAIR SERVICES		

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## **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Karen J.S. Fouts/
Name	Karen J.S. Fouts
Date	03/29/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BRAKE MASTERS SYSTEMS, INC.,

Petitioner,

v.

ABOLFAZL SHAJARI,

Registrant.

Cancellation No. \_\_\_\_\_

Registration No.: 3,101,042

Mark: BRAKE CENTERS and Design

Registration Date: June 6, 2006

**PETITION FOR CANCELLATION**

Petitioner, Brake Masters Systems, Inc. (“Petitioner”), through its attorneys, believing that it is and will continue to be damaged by Registration No. 3,101,042, issued June 6, 2006, for the mark BRAKE CENTERS and Design for “automotive repair, installation of replacement parts, and maintenance services,” hereby petitions to cancel such registration pursuant to 15 U.S.C. § 1064(1). Allegations with respect to Petitioner are based on actual knowledge. Allegations with respect to Registrant are based on information and belief. The grounds for cancellation are as follows:

1. Petitioner Brake Masters Systems, Inc. is a corporation organized and existing under the laws of the State of Arizona with a business address of 6179 East Broadway, Tucson, Arizona 85711.
2. Registrant Abolfazl Shajari (“Registrant”) is an individual residing in Calabasas, California.

3. Petitioner uses and owns various trademarks, including but not limited to the trademark BRAKE MASTERS and variations thereof for automotive brake repair services (collectively, the “BRAKE MASTERS Marks”).

4. Petitioner is a well-known provider of automotive brake repair services and operates more than 80 service center locations under the BRAKE MASTERS Marks throughout the southwestern United States.

5. Petitioner owns a valid and subsisting United States trademark registration for the BRAKE MASTERS and Design mark in International Class 037, registered on November 10, 1992, Registration No. 1,731,626 (the “‘626 Registration”) for automotive brake repair services.

6. Petitioner’s ‘626 Registration incorporates an octagon design resembling a traditional traffic stop sign, with the words “BRAKE MASTERS” appearing thereon, as follows:



7. Petitioner owns a valid and subsisting United States trademark registration for the BRAKE MASTERS and Design mark in International Class 037, registered on September 3, 2002, Registration No. 2,614,011 (the “‘011 Registration”) for automotive brake repair services.

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8. Petitioner's '011 Registration incorporates an octagon design resembling a traditional traffic stop sign, with the words "BRAKE MASTERS" appearing thereon, as follows:



9. Petitioner owns a valid and subsisting United States trademark registration for the BRAKE MASTERS mark in International Class 037, registered on May 10, 1988, Registration No. 1,487,817 (the "'817 Registration") for automotive brake repair services.

10. Petitioner has used the BRAKE MASTERS Marks since at least as early as 1983. Since that time, Petitioner has been continually using the BRAKE MASTERS Marks in commerce in connection with the advertising, promotion, sale, and offering of Petitioner's services in interstate commerce.

11. Petitioner has spent considerable sums of money advertising and promoting its services being offered under the BRAKE MASTERS Marks.

12. As a result of extensive use, advertising, and promotion, Petitioner's BRAKE MASTERS Marks, including the marks and designs (where applicable) as set forth in its '626, '011, and '817 Registrations, have become well known to the general public and trade. The marks have come to signify high quality automotive brake repair services originating exclusively with Petitioner, and have become a valuable symbol of Petitioner's good will.

13. In light of such good will and public association of the BRAKE MASTERS Marks with Petitioner, Petitioner is entitled to the exclusive right to use the BRAKE MASTERS Marks and any confusingly similar mark in connection with automotive brake repair services.

14. In light of such good will and public association of the BRAKE MASTERS Marks with Petitioner, Petitioner is further entitled to the exclusive right to use an octagon design resembling a traditional traffic stop sign with the word “BRAKE” appearing thereon, in connection with automotive brake repair services.

15. On June 6, 2006, the United States Patent and Trademark Office issued Registration No. 3,101,042 to Registrant for the mark BRAKE CENTERS and Design for “automotive repair, installation of replacement parts, and maintenance services” in International Class 037.

16. Registrant’s claimed date of first use for the BRAKE CENTERS and Design mark is January 1, 2003, with a claimed date of first use in commerce of July 15, 2005.

17. Registrant’s BRAKE CENTERS and Design mark incorporates an octagon design resembling a traditional traffic stop sign, with the words “BRAKE CENTERS” appearing thereon, as follows:



18. Priority is not an issue in this case. The Petitioner’s filing dates and dates of first use for the ‘626, ‘011, and ‘817 Registrations all precede the Registrant’s filing date and claimed date of first use for Registrant’s mark.

19. Registrant’s mark BRAKE CENTERS and Design for “automotive repair, installation of replacement parts, and maintenance services” is confusingly similar in sound, appearance, connotation and commercial impression to Petitioner’s BRAKE MASTERS Marks.

20. In particular, Registrant's incorporation of an octagon design resembling a traditional traffic stop sign in Registrant's BRAKE CENTERS and Design mark, compared with Petitioner's incorporation of an octagon design resembling a traditional traffic stop sign in Petitioner's '626 and '011 Registrations is confusingly similar in appearance and overall commercial impression to Petitioner's BRAKE MASTERS and Design marks.

21. The services covered by Registrant's registration for the mark BRAKE CENTERS and Design are similar and/or related – if not identical – to the services in connection with which Petitioner uses the BRAKE MASTERS Marks and obtained the '626, '011, and '817 Registrations, and are and/or will be sold and/or offered through the same and/or similar channels of trade, and/or to the same general class of purchasers, in and to which Petitioner's services are marketed and/or sold.

22. Registrant's mark BRAKE CENTERS and Design, as registered for automotive repair, installation of replacement parts, and maintenance services" so resembles Petitioner's BRAKE MASTERS and Design marks as to be likely to cause confusion, to cause mistake, or to deceive.

23. The continued presence of Registrant's mark BRAKE CENTERS and Design on the Principal Register injures and damages Petitioner because such mark, when used in connection with Registrant's services, is likely to cause confusion or to cause mistake, or to deceive as to some association between Registrant and Petitioner and/or the services provided by each; falsely suggest a connection or association with Petitioner and/or Petitioner's services; damage Petitioner's valuable good will in its BRAKE MASTERS Marks; and dilute the distinctive qualities of Petitioner's BRAKE MASTERS Marks.



WHEREFORE, Petitioner respectfully requests that Registration No. 3,101,042 for the mark BRAKE CENTERS and Design be cancelled.

Dated this 29<sup>th</sup> day of March, 2011.

Respectfully submitted,

WEISS & MOY, P.C.

/Karen J.S. Fouts/

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Attorneys for Petitioner

BRAKE MASTERS SYSTEMS, INC.

**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being electronically transmitted to the United States Patent and Trademark Office on March 29, 2011.

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/Karen J.S. Fouts/  
Karen J.S. Fouts

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing document, entitled **PETITION FOR CANCELLATION**, has been served on Registrant's attorney of record, by mailing said copy on March 29, 2011 via U.S. First Class Mail, postage prepaid, addressed as follows:

George D. Lee, Esq.  
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/Karen J.S. Fouts/  
Karen J.S. Fouts